

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Tung Shih Technology Co., Ltd.

Grantee of Equipment Authorizations for
Learned Mode Remote Control Transmitter
Devices, FCC ID Nos. MMORC0196M and
MMORMC575

EB Docket No. 05-30

EB-02-TS-606

JAN 31 2005

ORDER TO SHOW CAUSE

Adopted: January 26, 2005

Released: January 31, 2005

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Order to Show Cause, we commence a hearing proceeding pursuant to Section 2.939 of the Commission's Rules ("Rules"),¹ to determine whether the equipment authorizations held by Tung Shih Technology Co., Ltd. ("Tung Shih") for learned mode remote control transmitter devices ("learned mode transmitters"), FCC ID Nos. MMORC0196M and MMORMC575, should be revoked. Devices manufactured by Tung Shih under those FCC ID numbers apparently have the capability to transmit on frequencies that are not authorized by their equipment certifications. In addition, these devices apparently have the capability to transmit on restricted frequencies specified in Section 15.205(a) of the Rules.²

II. BACKGROUND

2. Learned mode or "trainable" transmitters are typically sold as universal replacements or duplicates for garage door openers, keyless entry systems, security alarms, remote switches and similar types of radio controlled devices. These transmitters are designed to recognize and replicate the operating frequency, duty cycle and coding scheme of the targeted radio system.³

3. As intentional radiators,⁴ learned mode transmitters must be certificated prior to marketing according to procedures specified in Part 2, subpart J of the Rules.⁵ On October 30, 1996, and October 2, 2002, respectively, the FCC's Office of Engineering and Technology ("OET") granted Tung Shih equipment certifications, FCC ID Nos. MMORC0196M and MMORMC575, for learned mode

¹ 47 C.F.R. § 2.939.

² 47 C.F.R. § 15.205(a).

³ Public Notice, *FCC Clarifies Equipment Certification Procedures for "Learned Mode" or "Trainable" Transmitters*, DA 02-2850 (October 28, 2002).

⁴ Section 15.3 (o), of the Rules, 47 C.F.R. § 15.3(o), defines an intentional radiator as "A device that intentionally generates and emits radio frequency energy by radiation or induction."

⁵ 47 C.F.R. Part 2, Subpart J

transmitters. The certification granted under FCC ID No. MMORC0196M authorizes emissions only in the 286-320 MHz frequency band, and the certification granted under FCC ID No. MMORMC575 authorizes emissions only in the 313.95-314.95 MHz frequency band. Additionally, Section 15.205(a) of the Rules allows intentional radiators, such as learned mode transmitters, to transmit only spurious emissions⁶ in the restricted frequency bands, which include 240-285 MHz, 322-335.4 MHz and 399.9-410 MHz.

4. After receiving complaints, the Enforcement Bureau ("EB") launched an investigation to determine whether learned mode transmitters manufactured by Tung Shih under FCC ID Nos. MMORC0196M and MMORMC575 are capable of transmitting emissions that are not authorized by Tung Shih's equipment certifications and whether they are capable of transmitting non-spurious emissions in any of the restricted bands specified by Section 15.205(a) of the Rules. As part of the investigation, EB purchased a sample device, the Remocon LRT-1 ("LRT-1"), manufactured by Tung Shih under FCC ID No. MMORC0196M. The OET Laboratory tested the LRT-1 and determined that it is capable of being tuned to and operated on a range of frequencies that are not authorized by its equipment authorization. Specifically, the OET Laboratory found that the LRT-1 was capable of acquiring and transmitting on a range of frequencies, including the frequency 437.004 MHz.⁷ Furthermore, the instructions for the LRT-1 included with the sample device indicated that it is designed to acquire and operate on all frequencies in the 255-500 MHz band, which includes frequencies that are within the restricted bands specified by Section 15.205(a) of the Rules, and the OET Laboratory's examination of the LRT-1 confirmed that the device can be readily tuned to restricted band frequencies. As part of the investigation, EB also ordered Tung Shih to provide a sample learned mode transmitter manufactured under FCC ID No. MMORMC575.⁸ Tung Shih provided a sample device ("RMC-535") manufactured by Tung Shih under that FCC ID number. The OET Laboratory tested the RMC-535 and determined that it is capable of being tuned to and operating on a range of frequencies that are not authorized by its equipment authorization. Specifically, the OET Laboratory found that the RMC-535 is capable of acquiring and transmitting on a range of frequencies, including the frequency 310.9 MHz.⁹ Additionally, the OET Laboratory's examination of the RMC-535 established that the device can be readily tuned to frequencies that are within the restricted bands specified by Section 15.205(a) of the Rules.

III. DISCUSSION

5. Section 2.939(a)(2) of the Rules provides that the Commission may revoke any equipment authorization "if upon subsequent inspection or operation it is determined that the equipment does not conform to the pertinent technical requirements or to the representations made in the original application."¹⁰ Furthermore, Section 2.939(a)(4) of the Rules provides that the Commission may revoke any equipment authorization because of conditions coming to its attention "which would warrant it in refusing to grant an original application."¹¹ The Commission is required to follow the same procedures in

⁶ 47 C.F.R. § 2.1 defines spurious emissions as "Emission on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emissions, parasitic emissions, intermodulation products and frequency conversion products, but exclude out-of-band emissions."

⁷ The OET Laboratory determined that the LRT-1 was capable of being tuned to and operating on a range of frequencies, but for testing purposes, it specifically operated the device on frequency 437.004 MHz.

⁸ Letter of October 26, 2004, from Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, to Tung Shih.

⁹ The OET Laboratory determined that the RMC-535 was capable of being tuned to and operating on a range of frequencies, but for testing purposes, it specifically operated the device on frequency 310.9 MHz.

¹⁰ 47 C.F.R. § 2.939(a)(2).

¹¹ 47 C.F.R. § 2.939(a)(4).

revoking an equipment authorization as it does in revoking a radio station license.¹² Pursuant to Section 312(c) of the Communications Act of 1934, as amended, before revoking a radio station license, the Commission must serve the licensee with an order to show cause why revocation should not be issued and must provide the licensee with an opportunity for hearing.¹³

6. As noted above, Section 15.205(a) of the Rules allows learned mode transmitters to transmit only spurious emissions in the restricted frequency bands, including 240-285 MHz, 322-335.4 MHz and 399.9-410 MHz. In addition, Tung Shih's equipment certification (FCC ID No. MMORC0196M) covering the LRT-1 authorizes operation only in the frequency band 286-320 MHz. In view of the instructions indicating that the LRT-1 can operate on any frequency in the band between 255 and 500 MHz and the OET Laboratory's examination of the device, which confirmed that the device can be readily tuned to restricted band frequencies, it appears that the LRT-1 fails to conform to the technical requirements of Section 15.205(a) and the requirements of its equipment certification. The OET Laboratory's finding that the LRT-1 is capable of acquiring and transmitting on a range of frequencies outside the 286-310 MHz band specified by the equipment certification, including frequency 437.004 MHz, provides further evidence that the LRT-1 apparently does not conform to the requirements of its equipment certification.

7. Similarly, in view of the OET Laboratory's observation that the RMC-535 can be readily tuned to frequencies that are within the restricted bands specified by Section 15.205(a) of the Rules, it appears that the RMC-535 does not conform either to the technical requirements of Section 15.205(a) or to the requirements of its equipment certification (FCC ID No. MMORMC575), which authorizes operation only in the frequency band 313.95-314.95 MHz. The OET Laboratory's finding that the RMC-535 is capable of acquiring and transmitting on a range of frequencies outside the 313.95-314.95 MHz band specified by the equipment certification, including 310.9 MHz, provides further evidence that the RMC-535 apparently does not conform to the technical requirements of its equipment certification.

8. Furthermore, it appears, in view of the foregoing, that the Commission would be warranted in refusing to grant an original application for equipment authorization for the devices certified under FCC ID Nos. MMORC0196M and MMORMC575. We are, accordingly, designating this matter for hearing before an Administrative Law Judge to determine whether the equipment authorizations held by Tung Shih under FCC ID Nos. MMORC0196M and MMORMC575 should be revoked.

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED** that, pursuant to Section 2.939(b) of the Rules, Tung Shih is hereby **ORDERED TO SHOW CAUSE** why its equipment authorizations, FCC ID Nos. MMORMC575 and MMORC0196M, **SHOULD NOT BE REVOKED**. Tung Shih **SHALL APPEAR** before an Administrative Law Judge at a time and place to be specified in a subsequent order and give evidence upon the following issues:

- (a) To determine whether the LRT-1 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORC0196M conforms to the technical requirements specified by Section 15.205(a) of the Rules;
- (b) To determine whether the LRT-1 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORC0196M conforms to the technical requirements specified by its equipment authorization;

¹² 47 C.F.R. § 2.939(b).

¹³ 47 U.S.C. § 312(c).

- (c) To determine, in light of the evidence adduced pursuant to issues (a) and (b), whether equipment authorization FCC ID No. MMORC0196M held by Tung Shih should be revoked;
- (d) To determine whether the RMC-535 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORMC575 conforms to the technical requirements specified by Section 15.205(a) of the Rules;
- (e) To determine whether the RMC-535 learned mode transmitter manufactured by Tung Shih under FCC ID No. MMORMC575 conforms to the technical requirements specified by its equipment authorization; and
- (f) To determine, in light of the evidence adduced pursuant to issues (d) and (e), whether equipment authorization FCC ID No. MMORMC575 held by Tung Shih should be revoked.

10. **IT IS FURTHER ORDERED** that, pursuant to 2.939(b) of the Rules, to avail itself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Tung Shih, in person or by an attorney, **SHALL FILE** with the Commission, within thirty (30) days of the release of this Order to Show Cause, a written appearance stating that it will appear at the hearing and present evidence on the issues specified above. If Tung Shih fails to file a timely notice of appearance, its right to a hearing **SHALL BE DEEMED TO BE WAIVED**. In the event that Tung Shih waives its right to a hearing, the Chief Administrative Law Judge (or the presiding officer if one has been designated) **SHALL**, at the earliest practicable date, **ISSUE** an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission.

11. **IT IS FURTHER ORDERED** that, pursuant to Section 0.111(b) of the Rules,¹⁴ the Enforcement Bureau shall serve as trial staff in this proceeding.

12. **IT IS FURTHER ORDERED** that, the burden of proceeding with the introduction of evidence and the burden of proof with respect to the issues specified above shall be on the Enforcement Bureau.

13. **IT IS FURTHER ORDERED** that a copy of this Order to Show Cause shall be sent by International Registered Mail, Return Receipt Requested, and by Federal Express, to Tung Shih Technology Co., Ltd., 7F-10, No. 130, Ssu Wei Road, Hsin Chu City, 300, Taiwan.

FEDERAL COMMUNICATIONS COMMISSION



David H. Solomon
Chief, Enforcement Bureau

¹⁴ 47 C.F.R. § 0.111(b).